

Yeas and nays called for, on passing the bill to 3rd reading stood thus:

*Yeas:* Senators, Bagby, Bourland, Brashear, Burleson, Hogg, Jewett, McKinney, McNeel, Miller, Navarro, Parker, Robinson, Wallace, Williams, and Williamson—15.

*Nays:* Senators Grimes and Scott—2.

Carried.

A bill to amend an act concerning divorce and alimony.

Senator Wallace moved to strike out "two years" and insert "one year."

Carried.

Senator Hogg moved to insert after "husband" 12th line, 1st section, "shall be taken in adultery."

Carried and bill referred to Judiciary committee.

A bill to organize to the county of Upshur—on report of committee on County Boundaries.

Senator Scott moved to reject the report.

Carried.

Senator Bourland moved to lay the bill on the table.

Lost.

Senator Scott offered the following amendment:

After the word "point" in 8th line, 1st section, strike out the word "opposite" and insert the words "one mile west."

Bill and amendments referred to Select committee—Senators, Scott, Bourland and Navarro.

Senator Bagby introduced

A bill requiring the county of Titus to pay a portion of the debt of Red River county.

Read 1st time.

Senate adjourned until Monday 9 o'clock A. M.

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SENATE CHAMBER, }  
 Monday, April 29, 1846. }  
 9 o'clock A. M.

Senate met, pursuant to adjournment—roll called and a quorum present.

Journal of the preceding day was read and adopted.

Senator Scott, Chairman of the Committee on Enrolled

**Bills**, reported that the committee had examined the following bill which they find correctly enrolled, and the same has been presented to the Governor for his approval—.

An act to organize the militia of the State of Texas.

Senator McKinney, Chairman of the committee on Internal Improvements, to whom was referred "a bill to establish the Central Railway Company" made the following report:

COMMITTEE ROOM, }  
April 16th, 1846. }

To the Honorable Edward Burleson,  
*President pro tem. of the Senate:*

The committee on Internal Improvement, to whom was referred an act to establish the Central Rail Road Company, after deliberating thereon, have instructed me to report.

That while they deem it a duty of the State, to give every just encouragement to parties to engage in objects of Internal Improvement or other laudable enterprise, at the same time, your committee are of opinion, that due care and regard to the common interests of every citizen of the State should be observed and preserved sacredly from every encroachment, and that no charter of incorporation should be granted to any Company, by which the interest of others could by possibility be affected. The provisions of the act, are such as in the opinion of your committee would conflict with the provisions of the Constitution, and if passed would give to other citizens just cause of complaint.

Your committee having learned that any modification of the provisions of the act, by which it would be deprived of the objectionable features referred to, would destroy all desire on the part of the parties seeking its passage, would respectfully report the bill to the Senate, and request to be discharged from further consideration of the subject.

THOS. F. MCKINNEY,  
*Chairman.*

On motion, the report was adopted, and bill rejected.

On motion of Senator Bagby, Senator Williams was added to the committee on Claims and Accounts.

#### ORDERS OF THE DAY.

A bill to provide for closing the business of the late War

and Marine department—on report of Judiciary committee recommending amendments—being special order of the day.

Amendments adopted.

Senator Wood moved to lay the bill on the table.

Lost.

On motion of Senator Parker, the bill was made the special order for Wednesday next 12 o'clock M.

A message was received from the House, transmitting the following bills:

A bill supplementary to an act to provide for the election of Representatives to the United States Congress.

A bill to require the counties of Polk and Tyler to pay a portion of the county debt of Liberty county.

A bill to require the counties of La. Vacca, De Witt, and Guadalupe, to pay a portion of the debts of the counties of which they are composed.

A bill regulating the office of County Treasurer.

A bill requiring the County Surveyor of Liberty county, to furnish the County Surveyor of Tyler county, with a map of the surveyed lands in the county of Tyler.

A bill requiring the county of Grimes to pay a portion of the debt of Montgomery county.

A bill to provide for the publication of the laws of the State.

A bill to authorize Inglis Oliver to reside permanently in the State.

Joint resolution granting the Honorable John Hemphill leave of absence from the State.

A bill, to prohibit free negroes from settling in this State.

A bill to provide for the transfer of records of administrators, to new counties.

A bill requiring the Courts of the county of Tyler, to be holden at Town Bluff in said county.

A bill regulating elections.

A bill requiring juries in certain criminal cases, to assess their fine to be imposed or the punishment to be inflicted.

A bill organizing County Courts.

All of which originated in the House.

Also the following bills, which originated in the Senate, having passed the House;

Joint resolution authorizing plaintiffs or defendants or their agents, to file in the Supreme Court, briefs of their cases, which shall be taken as an appearance.

A bill to, authorize the Governor to demand monies due the State by the Government of the United States.

Joint resolution granting permission to all persons who petition the Legislature for relief, to withdraw their vouchers.

And that the House had concurred in the amendments of the Senate to

A bill to provide for fixing the county seat of the county of Grimes; and

A bill to create the county of Navarro.

And had refused to concur in the amendments of the Senate to

A bill to declare what officers shall give certificates of election, in Senatorial Districts composed of more than one county.

And had appointed Messrs. Willie, Gillett, and Noble, a committee of conference on the

Bill to authorize Chief Justices elected on the first Monday in February last, to continue in office until their successors are elected.

And had adopted a resolution of the Senate, appointing a committee for the purpose of collecting all official seals of the late Republic of Texas, and to destroy the same—Messrs. Swift, Saddler, and Smith of H. said committee.

Senator Phillips, one of the committee on the Judiciary, made a counter report from the majority of the committee, on

A bill to legalize the surveys made in Bexar county by the Surveyor of Bastrop county.

COMMITTEE ROOM, }  
April 18th, 1846. }

To the *Honorable Edward Burleson,*

*President pro tem. of the Senate:*

The undersigned, one of the committee on the Judiciary, to whom was referred an act to legalize certain surveys in Bexar county, made by the surveyors of Bastrop county dissenting from the opinion of the majority of the committee who recommend the passage of the bill, deems it due to himself, to assign the reasons that induce him to maintain the position he has assumed.

By the caption of the bill; it will be seen at once, that the proposition is to *make legal* what the existing laws have not recognized as legal. From this fact, the undersigned had reason to believe that at least *an excuse*, if not a single reason or argument would be offered in favor of the passage of the bill; this however has not been done—the bill is reported back to the Hon. Senate for its favorable action, with the most repugnant frontispiece, bearing the impress of its unconstitution-

ality on its face, without a single comment on its nature and merits, or the propriety of its passage. If its aspect was prepossessing, or even if it purported to be in conformity with law, such a recommendation might not be considered unusual. But when the reverse of this is the fact the report implies great confidence in the influence of committee recommendation, and extraordinary reliance on the implicit faith of Senators. Yet such is the report, and as such it has placed the *onus* on the undersigned of proving a negative, instead of answering the arguments of a positive proposition. This though unreasonable and contrary to all established rules in similar cases, is yet no very difficult task in the matter now under consideration.

I have said it proposed in its caption, to *legalize* what is acknowledged to have been *illegal*. This acknowledgment is founded on the several statutes of the Republic of Texas, passed at different times relative to the General Land Office, and the public domain. The first in the order of time, will be found on page 216, Laws of Texas, first session, section 13. The act was vetoed by the President, but passed by a constitutional majority on the 22d December, 1836. It gave the Surveyor General in each land district, with his deputies, *territorial* jurisdiction only, and made them subject to the instructions that might be furnished from time to time by the Commissioner of the General Land Office. Before this act went into operation, a second law was passed during the same session of Congress, which was also vetoed and passed by a constitutional majority, on the 12th June, 1837. This act left the land districts the same and in the 13th section, as will be seen by reference to page 263, 1st session, gave the Surveyor General of each district, with his deputies, territorial jurisdiction, still subject to instructions of the Commissioner of the General Land Office. Before, however, this last act went into operation, both acts were suspended by a third law passed at the 2d session of Congress, dated 30th September, 1837. During the same session, a fourth act was passed on the 14th December, 1837. In the 9th section of this act, *each county* was made a land district, and a Surveyor General appointed for the same, with the same *territorial* jurisdiction, and with authority to appoint deputies in his district, the former still subject to the instructions of the Commissioner of the General Land Office, and the latter to those of their principal. This last act, formed the main basis of all action relative to the location and survey of public lands. It did not in terms, repeal the other acts

on the same subject, and hence must be construed as a modification of the one passed 30th September, 1837. It will be observed, however, that *each county* is made a land district by the act last passed. It will also be observed from the brief review of the several acts, that the Surveyors General with their deputies, were uniformly made *territorial officers*. Out of their respective districts, they had no official authority. A Surveyor General for the county of Bexar, could no more perform an official duty relative to land in the district of Nacogdoches, than a Justice of the Peace or a Constable in and for the county of Nacogdoches could exercise his judicial or ministerial functions in the county of Bexar, and *vice versa*. The exercise of the franchise was limited to the particular district. What was done therefore, by any Surveyor or his deputy out of his territorial limits, was done not in his *official* but *private* capacity. The acts done out of the district, can be considered in no other light than those of private individuals; and they had not the sanction of official authority under *the law*.

This is acknowledged by the caption of the bill. It is now proposed to clothe them with official authority, or in other words to *legalize* and make *valid*, acts that by the laws in force when they were done, were officially *illegal* and *invalid*.

The first question then is, can this be done at all? If so, the second question will be, can it be done in the form of the bill recommended by a majority of the Judiciary committee?

In discussing the first question, the Hon. Senate will notice that the acknowledgment of the official illegality of the acts, admits the proposition that the acts done, gave rise to no rights. If the acts *originated* rights for the enjoyment of which there was no remedy, a law might now be passed giving a remedy to evolve those rights from their inert and dormant state, bring them to life, and place them in a position to be enjoyed. Such a law would be considered as remedial only, and not particularly objectionable, because retrospective. In fact, it would not be retrospective in the sense of the Constitution, inasmuch as it would operate only *prospectively*, as it might be resorted to as a remedy to secure a *pre-existing* right. But this is not the case as proposed by the bill. It proposes to *create* rights which never existed. The location and survey of land as made under the circumstances stated in the bill, created no right in any specific land that was situated in Bexar county. The owners of the certificates had the same rights before, as after the locations and surveys. Their position in that

respect was not changed—their rights were neither increased or diminished, nor were they altered in form. The bill proposes then, the creation of an equity right in specific land in Bexar county, in favor of certain persons unknown, and that this right shall be deemed to have *legal existence* so far back as they may please, though “the memory of man runneth not to the contrary” for it gives no dates and assigns no specific period. For aught that appears on the face of the bill, the surveys and locations may have been made previous to the revolution, or if made since, after closing of the Land Office by the Consultation, or during the suspension in 1837. But suppose a time specified which is past: the Bill of Rights, article 1st, declares that “no *retroactive* law; or any law impairing the obligation of contracts shall be made.” This clause in the Constitution, in the opinion of the undersigned, is directly violated by the terms of the bill. Its very object is *retroaction*. This constitutes its *chief value* in the estimation of its friends; strike out the *retroactive* portion of the bill, and nothing is left; deprive it of all retroaction, and what is now urged with so much anxiety, and by such strong appeals to our sympathy, and I might add without any argument to convince the judgment, would at once be discarded as worthless. Its beauty consists in its repugnant deformity. On this point there can be no mistake; yet this bill, bearing the mark of its unconstitutionality in its caption, is reported back and recommended for the favorable action of the Senate, without an argument, or even an apology. But it is *retrospective* in the sense of impairing the obligation of contracts as well as retroactive. It was supposed that this objection was obviated by the proviso which was adopted. On a critical examination however of the proviso, it will be found insufficient in cases of conflicting right. The proviso embraces those cases only where locations and *actual surveys* have been made in Bexar county. It makes no provision for the case of a location only. This is the legal construction of the clause; when the undersigned proposed an amendment to obviate this objection, it was resisted on the very ground that no respect should be paid to locations simply. The broad ground is assumed, that the first survey should hold the land, without regard to legality of location, or any rights that may have accrued under it. The argument in committee assumed two positions, to neither of which can the undersigned agree; first that a location of land that lay in Bexar county, by application to a surveyor of San Augustine county, would originate an equity right to the land in Bexar county; second, that a le-

gal location in the proper county, *without* an actual survey, would originate *no right!* With regard to the first position, it is maintained by the undersigned, that a location and survey of the public land, not made under the authority of law, is as though it had not been made. It is a blank, and can draw no prize. As to the second proposition, a location made by virtue of a genuine certificate, made in conformity with law, gives an equity right in favor of the owner of the certificate to the specific land designated in the calls of the entry. This equity right arises on the contract made by Government with the owner of the certificate; a law divesting that right, would impair the obligation of the contract and be unconstitutional.

But the bill is unconstitutional in another point of view. Article 7, section 24, of the Constitution of the State, declares that every law enacted by the Legislature shall embrace but one object, and that shall be expressed in its caption. By reference to the caption, it will be perceived that the object there expressed, is to legalize "*certain surveys in Bexar county, made by the surveyor of Bastrop county*" Let us now examine the bill, and see if this *one object* is carried out in the body of the bill.

The first section reads thus: "Be it enacted by the Legislature of the State of Texas, That *all surveys and locations* of land made by the surveyor of Bastrop county, which proved to be in Bexar county, &c., shall be valid."

The "*certain surveys*" then prove to be "*all surveys*" and *all* locations. Here is an *addition* distinctive in its character and in its technical application to land, totally different from a survey; nor is this all—such a location made by a person in Bastrop county, on land lying in Bexar county, if not conflicting with a location and *an actual survey* in Bexar county, must be "*valid*" while its "*validity*" may be at variance and come in conflict with a *valid location* made in Bexar county, and *nullify* the latter. The body of the bill then adds "*locations*" which are not embraced in the caption, and proposes to *illegalize* legal locations, while the caption proposes to *legalize* only those surveys that are *illegal*. Again, the "*certain surveys*" are easily identified, not indeed in the ordinary mode by reference to the name of the original grantee of the certificate, the class, the number, where issued, whether recommended or not as genuine, whether made under certificates or not; but they are indented and most palpably held up to the inspection of the Honorable Senate as comprising "*all*" that are *illegal*. In this consists their certainty. In vo-

ting them valid therefore, we vote with full knowledge, and cannot be deceived. There is no danger of inflicting any benefit on the innocent owner, of a *legal* survey. That is most judiciously avoided. But the body of the bill does not stop after legalizing these certain "surveys," and *illegalizing* what may conflict with them. It proceeds to prescribe new duties for the county surveyor, and for the Commissioner of the General Land Office, hitherto unknown to the law. The county surveyor is required to map said surveys without regarding the certificate or usual calls of an entry, or the correction of the work, or the connexion of the surveys. This last cannot be done without actually running the lines. The present law makes it the duty of the county surveyor to connect the work in each county. That law is suspended by the bill in favor of this special "class" of "certain surveys." The Commissioner of the General Land Office is also required to issue patents on these surveys without any connections, as in ordinary cases. The inevitable results on the passage of the bill, would be confusion and disorder in the land office at Bexar, and also in the General Land Office at the seat of government. If then the bill be unconstitutional as the undersigned believes, what is proposed by the bill cannot be done. This fact is a sufficient answer to the second question. If this cannot be done at all, it cannot be done by the present bill, nor by the bill however it may be amended.

The *hardship* of the case has been strongly urged as an argument in favor of the passage of the bill. For the Legislature to shape their action under the influence of such suggestion, would be to assume a *judicial* attitude on the part of this body. The State government is divided into three separate branches, the Legislative, Executive and Judicial. It is the province of the first, to enact the laws, and of the latter to decide on facts and apply the laws. This body cannot decide on the merits of individuals, or determine what is a hardship or what is not, under past laws. Accurate decision on such a matter, requires a full hearing on both sides of a case, a jury to determine the facts, and much more testimony than *ex parte* statements, made without the sanction of an oath. But if all the solemn results of impartial judicial investigation were before us, we could not pass on the *law* of the case; *that* duty is devolved on another branch of the government.

Nor are we authorized by the Constitution, to attempt the decision of such matters by the exercise of *equity* legislative powers. This is a branch of the Judicial Department, upon

which we cannot constitutionally encroach. But independent of that fact, the impropriety and danger of such a proceeding, is most clearly demonstrated by historical facts connected with this bill. On the records of the district court in and for the county of Travis, will be found the case of H. Millard vs. the Commissioner of the General Land Office. That was a case directed to the Chancery side of the court, and the subject matter was one of these "certain surveys" made in Bexar county by the surveyor of Bastrop county. The facts, the law and the *equity* of this class of cases, were fully proven and argued before the Court. The "hardship" of the case was fully considered. After solemn argument, the case was dismissed with costs. "*Equitas sequitur legem*" is the rule in all cases of this description. It is a matter of surprise to the undersigned, that he should stand alone on the Judiciary committee, the advocate of this long established rule. No decision, ancient or modern, can be quoted, where an *equity* right is acknowledged as arising in *opposition* to statute law.

I will only allude, in closing, to the statutes defining the boundaries of Bexar and Bastrop counties. This, though not necessary to an accurate view of our duty in this case, will nevertheless present, in a still stronger light, the impropriety of legislative action on this subject. The law defining the boundary of Mina, afterwards Bastrop, page 91, 2d session, directs the course from the North West corner of Milam's colony, to be due East to the Colorado, crossing the same and running in the same direction to the dividing ridge between the Brazos and Colorado. The sketch herewith submitted, marked A, will show the lines. Under this law the Land Office opened.

In 1838, the people of Bastrop became dissatisfied with this boundary, and obtained the passage of a law, page 49, running from the North West corner of Milam's colony, North 17 deg. East, thus including a large additional scope of country taken from the county of Bexar, as will be seen from the sketch marked A.

Many of the "certain surveys" alluded to in the bill, were made more than one hundred miles above the statutory line.— The mistake then in the supposed line, was quite considerable, as it seems to have been thought to run *three times* as far above the line running North East, as the distance from that line to the Fayette line, (see map in the General Land Office.) That this was an *innocent* mistake, is not for us to determine. If however, it was *innocent*, and the influence of an argument based upon that innocence is to be proportioned to the great-

ness of the mistake, its consideration must prove overwhelming.

The undersigned will only add, that he views this question, not as one between the two counties in this connection, nor as between the people of the two counties, but as a question of general and national import. His high respect for the introducer of the bill, induced him to propose amendments to facilitate its passage, but due reflection constrains him to express the opinion, that no bill in any form, securing the object proposed, can pass without a violation of the Constitution.

A. H. PHILLIPS.

On motion of Senator Burleson, the bill was taken up.

Senator Navarro offered the following amendment:

Insert in 6th line, 1st section, the words "other locations or surveys."

Senator Williamson moved to strike out "or" and insert "and" in the amendment.

*Yeas.* Senators, Bagby, Bourland, Burleson, Grimes, Hogg, Jewett, McNeel, Miller, Parker, Robinson, Wallace, Williams, Williamson and Wood—15.

*Nays.* Senators, McKinney, Navarro, Phillips and Scott—4.

Carried and amendment adopted.

Senator Navarro offered an additional section:

SECTION 2. *Be it further enacted,* That whenever an application is made to the County Surveyor of Bexar county, contemplated in the foregoing section, by any of the persons interested in the surveys and locations therein referred to, it shall be his duty to ascertain that the surveys and locations on which the application is made, do not conflict with any other surveys or locations made by the surveyor of Bexar county, before the passage of this act, and in case that no such conflict exist, he shall comply with the requisites of the foregoing section.

*Yeas and nays being called, stood thus:*

*Yeas.* Senators, McKinney, Navarro, Phillips and Scott—4.

*Nays.* Senators, Bagby, Bourland, Brashear, Burleson, Grimes, Hogg, Jewett, McNeel, Miller, Parker, Robinson, Wallace, Williams, Williamson, and Wood—15.

Lost.

Senator Navarro offered the following amendment:

*Provided however,* That this act shall not be so construed as to have any retroactive effect, not allowed by the Constitution.

Yeas and nays called on the adoption, stood thus:

*Yeas.* Senators, McKinney, Navarro, Phillips and Scott—4.

*Nays.* Senators, Bagby, Bourland, Brashear, Burleson, Grimes, Hogg, Jewett, Miller, McNeel, Parker, Wallace, Williams, Williamson and Wood—15.

Lost.

Question on the engrossment of the bill:

*Yeas.* Senators, Bagby, Bourland, Brashear, Burleson, Grimes, Hogg, Jewett, Miller, McNeel, Parker, Robinson, Williams, Wallace, Williamson and Wood—15.

*Nays.* Senators, McKinney, Navarro, Phillips and Scott—4.

So the bill was ordered to be engrossed.

A message was received from the Governor, returning an act organizing Justices' courts, without his signature, and his reasons therefor in writing.

EXECUTIVE DEPARTMENT, }  
Austin, 20th April, 1846. }

*To the Honorable, the Senate:*

The Executive herewith returns to your honorable body, without his approval, a bill entitled "an act to organize Justices courts, and to define the powers and jurisdiction of the same." The fifth section of this bill gives to Justices of the Peace, jurisdiction over assaults and batteries, riots and affrays, and proposes to authorize them to try persons accused of the offences named, without the intervention of a jury, and to impose fines upon the accused where, in the Justice's opinion, they are guilty of the offence charged against them. That section of the act is, in the opinion of the Executive, clearly unconstitutional. The 8th section of the "bill of rights" declares that "in all criminal prosecutions, the accused shall have a speedy public trial by an impartial jury," and the 10th section of "article fourth" of the Constitution provides, that "in the trial of criminal cases, the jury trying the same, shall find and assess the amount of punishment to be inflicted or fine imposed, except in capital cases and where the punishment or fine imposed shall be specifically imposed by law," and the act under consideration would deprive defendants of those two Constitutional privileges. If, however, no constitutional provision interposed to compel him to withhold his approval of this bill, the Executive would regard it as highly inexpedient to repose in the hands of Justices of the Peace the power proposed by the section referred to. It would be giving li-

cense to persons to commit the offences enumerated—the turbulent and violent would set the authority of the magistrate at defiance, and none but the more peaceful and submissive would pay the penalty of the law in such cases.

The Executive, therefore, feels it to be his duty to return the bill for the reconsideration of the Legislature.

J. PINCKNEY HENDERSON.

Senate adjourned until 3 o'clock P. M.

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3 O'CLOCK, P. M.

A bill supplementary to an act to provide for the election of Representatives to the United States Congress, was taken up—rule suspended and bill referred to committee on Privileges and Elections.

Bill requiring Chief Justices, Clerks of the District and County Court, Sheriffs and County Treasurers, to reside at the county seat; ordered to be engrossed.

Senator Williams introduced a bill, to define the time of holding the District Court in the Eighth Judicial District.

Read 1st time.

Bill to raise a revenue by direct taxation; read 3d time and passed.

Bill creating the county of Henderson; read 3d time and passed.

Bill transferring a part of the liabilities of Milam, to Burleson county; read 3rd time and passed.

Bill for the relief of James Gilliam assignee of Jesse Billingsly; read 3rd time and passed.

Bill for the relief of R. M. Williamson; laid on the table until Wednesday next.

Bill concerning roads in Robertson county; read 3rd time and passed.

Joint resolution declaring the exclusive right of Texas to the jurisdiction of the soil within her limits.

Yeas and nays called for on the final passage:

*Yeas:* Senators, Bagby, Bourland, Brashear, Burleson, Grimes, Hogg, Jewett, McKinney, McNeel, Miller, Navarro, Parker, Robinson, Scott, and Williams—14.

*Nays:* Senators Phillips and Wallace—2.

Carried and bill passed.

Bill regulating juries; read 3rd time and passed.

Senator Wallace offered the following resolution:

*Resolved*, That the committee on the Judiciary, be instructed to prepare and report as early as practicable, a bill to organize Justices' Courts, and to define their powers.

Adopted.

Joint resolution prescribing the mode of notifying the Governor, when a bill creating a private corporation has constitutionally passed both Houses.

Ordered to be engrossed.

Bill to establish the county of Cass; laid on the table.

Joint resolution to authorize J. G. Rector to sell his donation claim.

Yeas and nays called for on the engrossment:

*Yeas*. Senators, Bagby, Bourland, Burleson, Grimes, Jewett, Miller, Parker, Phillips, Robinson, Scott, Williams, and Wood—12.

*Nays*. Senators, Hogg, McKinney, McNeel, Navarro, and Wallace—5.

Bill for the relief of widows and orphans.

Report of the Judiciary committee recommending the rejection of the bill, adopted.

A bill to incorporate the Society of Free Masons; read 2d time and passed to 3rd reading.

The Senate refused to recede from their amendments to

A bill to declare what officers shall give certificates of election in Senatorial elections, where the district is composed of more than one county.

On motion a committee of conference was appointed, composed of Senators Phillips and Williams.

Senator Jewett moved the Senate adjourn until 9 o'clock Wednesday, to-morrow being the anniversary of the battle of San Jacinto.

*Yeas*. Senators, Burleson, Jewett, Navarro and Wallace—4.

*Nays*. Senators, Bagby, Bourland, Grimes, Hogg, McKinney, McNeel, Miller, Parker, Phillips, Robinson, Scott, Williams and Wood—13.

Lost.

Senator Phillips moved the Senate adjourn until 8½ o'clock, to-morrow morning.

*Yeas*. Senators, Bagby, Bourland, Grimes, Hogg, McKinney, McNeel, Miller, Parker, Phillips, Robinson, Scott, Williams and Wood—13.

*Nays.* Senators, Burleson, Jewett, Navarro and Wallace.  
—4.  
Carried.

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SENATE CHAMBER, }  
TUESDAY, April 21, 1846. }  
8½ O'CLOCK A. M.

Senate met, pursuant to adjournment—roll called and quorum present.

Journal of the preceding day was read and adopted.

Senator Scott, Chairman of the committee on Engrossed Bills, reported the following bills as correctly engrossed:

A bill to legalize certain surveys made in Bexar county, by the surveyor of Bastrop county; a bill authorizing the Commissioner of the General Land Office, to issue patents to claimants on land lying in two or more surveys; and a bill to provide for the organization of the counties of San Patricio and Nueces.

Senator Robinson offered the following resolution:

*Resolved*, That the committee on Public Lands, be instructed to inquire into the expediency of reporting, a bill to authorize the owners of head right certificates to locate the same in two or more counties.

Adopted.

Senator Scott, one of the Select committee, to whom was referred a bill to organize the county of Upshur. reported the same back with amendments.

1st Section 8th line, strike out the word "opposite," and insert "one mile above."

Report adopted.

Rule suspended—bill read 3rd time, and passed.

### ORDERS OF THE DAY.

Bill to legalize the several seals heretofore used by the General Land Office; read 3rd time and passed.

Bill to incorporate the society of Free Masons; read 3rd time, and passed.